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# Criminal Law

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A criminal record could cause problems in an employment opportunity, even if you have been only charged once for a crime. Sometimes even the least serious crimes may prevent you from obtaining certain types of employment or could cause you to lose your job. Also, a charge can be used against you if you are charged for a crime again in the future.

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## What Is A Crime?

A crime is an action that is against the law or ignoring an action that is required by law. Committing a crime can subject you to penalties such as fines, imprisonment or both. The more serious the crime, the more severe the penalty. Crimes are divided into three major groups: summary offenses, misdemeanors and felonies.

Summary offenses include most traffic violations, disorderly conduct and first-offense shoplifting. Summary charges are brought against a person through a citation from a police officer (as in the case of most traffic violations) or by a summons from a magisterial district judge to appear and answer to charges.

If the person charged wants a hearing, it is held by the magisterial district judge. If that person is found guilty and a fine or prison sentence is imposed, he/she can appeal the decision to the Court of Common Pleas in the county where the charge was filed. The appeal must be made promptly or the opportunity to appeal will be lost.

*Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.*

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Another possibility for the handling of summary offenses recently has been put into effect. This procedure is known as Accelerated Rehabilitative Disposition, or “ARD.” Prior to a hearing in a summary offense matter, you should discuss the possibility of ARD with your lawyer.

Misdemeanors and felonies are more serious types of crimes. Misdemeanors include driving under the influence of alcohol or drugs, assault and some types of theft. Charges such as robbery, burglary, rape and murder are examples of felonies.

In cases of misdemeanor and felony charges, there will be a preliminary hearing before a magisterial district judge. This is not a trial. The magisterial district judge does not determine guilt or innocence in cases of misdemeanors or felonies, but determines only if the commonwealth is able to make out a charge that should be tried in court. If so, the trial is then held in the Common Pleas Court of the county where the charges are filed.

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## What If I Am Stopped By A Police Officer?

Police may ask you to identify yourself or question you briefly without arresting you. They may also issue a citation to you for a summary offense. If an officer takes you into custody or otherwise deprives you of your freedom, informs you of your rights or that you are under arrest and indicates that you are being held for a crime, you have been arrested.

It is a crime to resist arrest by the police. The officer may use reasonable force if necessary to make the arrest. You should not resist an officer arresting you or interfere in the arrest of another person. If you think that your rights are being violated, remember exactly what is being done and tell your lawyer about it as soon as possible.

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## When Can The Police Conduct A Search?

Not all police searches require a search warrant. If you consent or allow police to search you or your property, they do not need a warrant and any evidence found may be used against you.

If you are arrested, the police do not need a warrant or your consent to search. Prior to an arrest, police may conduct a

“pat-down” to determine if a person is carrying a weapon. A warrant or consent is not necessary for this search. Also, after an arrest, police are allowed to “frisk” a person to determine whether he/ she is carrying weapons or other illegal items. Police are also permitted to search the immediate area.

A warrant or consent also is not needed in what are called “exigent” circumstances. Exigent circumstances arise when police officers are faced with what reasonably appears to be an emergency demanding an immediate search. This may happen when valuable evidence would otherwise be lost or damaged or when a suspected criminal is likely to escape before a warrant can be obtained. In any of these situations you should not obstruct or resist a search.

There are other instances in which the police are not legally required to obtain a warrant or your consent prior to a “search and seizure.” If you feel that the police have improperly searched you or your property, you should discuss the matter with a lawyer.

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## What If I Am Charged With A Crime?

When you are charged with a crime, especially a misdemeanor or felony, you have certain rights. The two most important rights you have are the right to remain silent and the right to have a lawyer present at all stages of the process. You should be aware of these rights and remember them. They apply not only after you’ve been charged with a crime, but also even if you believe you are suspected of having committed a crime.

The most important things to remember when you have been charged or think you will be charged of a crime are:

- Be aware of your rights.
- Be courteous and respectful to the police and the court. They will understand if you choose not to discuss your case since it is your right.
- Make arrangements for bail as soon as you can. You may use the services of a bondsman or you may post bail with your own money or real estate, or that of a friend. Registered bondsmen may charge for posting bail. However, if you use your own money or real estate, or that of a friend, when you have complied with all appearances and the trial is completed, your money will be returned and the real estate will no longer be subject to your appearing in court.

- Do not give up the right to a preliminary hearing unless your lawyer advises that you do so.
- Listen to your lawyer. If you are told not to discuss your case with anyone, follow the advice.
- If you are arrested for driving under the influence of alcohol or drugs, you may be asked to take a breath test, blood test or urine test. You have the right to refuse such tests, but if you do you will lose your driver’s license for one year. The police officer should tell you that you do not have a right to have a lawyer present or to discuss the request for a test with a lawyer prior to the time that you must answer the request.

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## Why Should I Be Concerned By Criminal Charges?

A criminal record could cause problems in an employment opportunity, even if you have only been charged once for a crime. Sometimes even the least serious crimes may prevent you from obtaining certain types of employment or could cause you to lose your job.

Also, a charge can be used against you if you are charged for a crime again in the future. For example, an earlier charge may be used in a pre-sentence report and may result in a more severe sentence for the current crime. In addition, in such cases as shoplifting, the first conviction is recorded and should you be charged for the same crime again, you will no longer face a summary charge but will be charged with a misdemeanor, which carries a more severe penalty.

For these reasons, you should realize that a criminal charge is serious not only because of the punishment that you may receive now, but also because of the affect it may have upon your future. Because a criminal charge is so serious, it is important that any criminal charge be handled properly.

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## How Can I Find A Lawyer?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free in PA at 800-692-7375, or 717-238-6715. Most counties have this same service at the local level. Check your Yellow Pages under “attorneys” for more details.